

THE HONORABLE RICARDO S. MARTNEZ

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA, et al.,

Plaintiffs,

vs.

STATE OF WASHINGTON, et al.,

Defendants.

Case No.: C70-9213

Subproceeding No. 01-1 (Culverts)

DECLARATION OF ROBERT THOMAS BOYD
IN SUPPORT OF PLAINTIFF-TRIBES'
MOTION FOR SUMMARY JUDGMENT

I, Robert Thomas Boyd, hereby declare as follows:

1. I am currently employed as an anthropological consultant and professional writer. I am also an adjunct associate professor in the Department of Anthropology at Portland State University. I have a Ph.D in Sociocultural Anthropology from the University of Washington, awarded in 1985.

2. My area of focus is Northwest Coast Native Americans (particularly Oregon and Washington), specializing in medical anthropology, ethnohistory, cultural ecology, culture contact and change, and demographic anthropology. I have published extensively on Native American

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1 anthropological issues in the Pacific Northwest and currently have book contracts with both the
2 University of Washington Press and Columbia University Press. My CV is attached to this declaration.

3 3. I was asked by counsel for Plaintiff Tribes in this sub-proceeding to investigate the
4 practices, if any, of Indian tribes in western Washington, at and before the treaties of 1854-55, intended
5 to protect, preserve or improve the numbers of fish available for their harvest; and, the significance of
6 any such practices in Indian life at that time. I prepared a written report setting forth the results of that
7 investigation. This declaration is a summary of portions of that report.

8 4. The Puget Sound Indians with whom Isaac I. Stevens negotiated treaties in 1854 and
9 1855 – descendants of which make up the modern Nooksack, Lummi, Swinomish, Upper Skagit, Sauk-
10 Suiattle, Tulalip, Stillaguamish, Suquamish, Muckleshoot, Puyallup, Nisqually, Squaxin, Skokomish,
11 Port Gamble S'Klallam, Lower Elwha Klallam, Jamestown S'Klallam, Makah, Hoh and Quileute, and
12 Quinault – relied heavily on the region's abundant salmon fisheries. The peculiarities of the salmon life
13 cycle helped shape the structure of the Puget Sound Indian societies that relied upon them. Salmon
14 hatch in freshwater streams and mature at sea. When ready to reproduce, they congregate at the mouths
15 of their natal rivers, then proceed *en masse* upstream to spawn and die. Because migrating salmon do
16 not feed, and therefore cannot be caught using bait, Indians harvested them with tools like weirs;
17 because salmon require clean gravel and cool water to spawn, Indian taboos discouraged disturbing
18 stream beds and muddying waters during runs; because salmon migrate *en masse*, Indian religious
19 ceremonies celebrated the first salmon of the run to encourage other fish to follow. In pre-treaty Puget
20 Sound, the life of the Indian was intimately connected to that of his most cherished commodity, the
21 salmon.
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5. Pre-treaty Puget Sound Indian societies efficiently harvested vast quantities of salmon. Indians took salmon wherever they could, by whatever means possible. At the same time, Indian societies developed effective tools that managed this vital resource and protected it from depletion. Tribal communities carefully regulated fishing activities, with weir builders of social rank, for example, determining who could fish, when they could fish, and amounts taken. Tribal myths encouraged Indians to share their catch and refrain from harvesting more than they needed. In the S'Klallam "Stingy Father" tale, for instance, a father who keeps all of his salmon to himself while his family starves is turned to stone. Indian rituals even discouraged keeping food from guests and strangers. Salmon caught in village weirs were shared throughout the Indian community, each member taking a share of the catch.

6. Pre-treaty Indian fishers also mitigated the impact of their efficient fishing technologies on stocks. Although Indian weirs – fences stretched across tributary streams – could easily kill all of the migrating fish that encountered them, Indian management practices prevented it. Indians periodically lifted their weirs to permit migrating fish to move upstream or to clean the weirs. Myths explained why: The Green River myth "North Wind and Storm Wind" relates what happened when Cold Wind "stretched a fish-weir of ice across the Duwamish River. No fish could get up the river past this trap. Further up the valley the people starved. They could get no fish to eat....All the people were killed." Those who followed Cold Wind's example could expect swift retribution. Other myths warned that upstream Indians might attack greedy downstream neighbors. A Quileute myth told of poisoning them with a salmon made of "snakes, lizards, frogs, toads, waterdogs." Worse, other myths warned that the salmon themselves might take offense if the weirs were not opened. The Skokomish believed that if they failed to open their weirs the salmon would not return the following year. Such regulations of fishing technology helped pre-treaty Indians preserve salmon fisheries.

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PSC ANTHROPOLOGY

1 7. Indian taboos also helped preserve salmon habitat. Before salmon started running, rivers
2 were to be kept clear. No rubbish or food scraps were to be tossed in the river, no canoes were to be
3 bailed out in it. Menstruating women were not to swim in its waters. Such prohibitions sought to ensure
4 that salmon would want to return to their natal streams. If Tribal members adhered to such rules,
5 returning salmon would find clean streams running in clear, cool water -- just the conditions they
6 required to spawn. Violating the taboos risked disturbing spawning grounds and turning salmon away in
7 the future. Fewer returning salmon would, of course, reduce Tribal catches.

8 8. Other pre-treaty Puget Sound Indian rituals honored the salmon, endowing the fish with
9 supernatural qualities. The First Salmon ceremony was widespread among Puget Sound Indians in the
10 pre-treaty period. During the ceremony, a ritualist or his assistants took the first fish and carried it in a
11 special manner to an altar on which it was displayed to the assembled village. The first fish was usually
12 placed with its head pointing upstream so the rest of the salmon would continue upstream and not turn
13 back to the sea. The first fish was treated as an honored guest of high rank; the ritualist sprinkled it with
14 eagle down or red ochre or other ritual material, and made a formulaic speech of welcome followed by
15 songs or chants appropriate to greet a visiting chief. The fish was cooked by the ritualist or an assistant
16 to the accompaniment of prayers and songs. Then, each person was given a sacramental taste and the
17 bones of the first fish were returned to the water. After the ceremony, villagers might begin to fish for
18 themselves. The Indians of Puget Sound intended that such a ceremony would ensure the continued
19 abundance of the salmon fishery on which they depended, encouraging the salmon to return year after
20 year.
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1 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and
2 correct to the best of my knowledge. Executed this 11 day of August 2006, at
3 Portland, Oregon.
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7 Robert Thomas Boyd
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RESUME OF ROBERT THOMAS BOYD

CONTACT INFORMATION:

Address:

1039 SE 25th
Portland, OR 97214-2811

E-mail: pdx01537@pdx.edu
Phone: 503-238-1035

EDUCATION:

- 1967: BA, Anthropology, Portland State College
- 1969: MA, Sociocultural Anthropology, University of California (Los Angeles)
- 1985: PhD, Sociocultural Anthropology, University of Washington

EMPLOYMENT:

- Occupation: Writer and anthropological consultant.
- 2002 to date: Book contracts (see work in progress), University of Washington Press and Columbia University Press.
- July 2000 to date: Adjunct associate professor, Department of Anthropology, Portland State University.
- Jan./Feb. 2002: Research report on middle Columbia Native American ethnogeography and exchange patterns as seen in the Lewis & Clark journals, for the Yakama Nation Museum's forthcoming Lewis & Clark bicentennial exhibit.
- 1982-2002: Correspondence course instructor, American Indian Studies/Anthropology C311: North American Indians: Northwest Coast Distance Learning, University of Washington.
- 1987-1993: Anthropological consultant, Northwest Ethnohistorical Research Associates.
- Archaeological Investigations Northwest: ethnohistorical research on Indian use of Mt. Hood and Gifford Pinchot National Forest lands, USFS.

Smithsonian Institution: contracted chapters on demographic history, *Handbook of North American Indians*, volumes VII (*Northwest Coast*) and XII (*Plateau*).

Research assistant to editor (Wayne Suttles) of *HNAI* VII (chapter on environment and ecology).

Infotec Research Incorporated: ethnographic report on Indian cultures of north central Oregon, for BLM cultural resources overview.

Charles Hibbs Cultural Resource Associates: ethnohistoric research on Indian land use along two projected natural gas pipelines, northwest Oregon.

Columbia River Defense Project: anthropological research for legal case on Indian fishing rights in the Columbia River Gorge.

- 1990-91:
(autumns) Evening class instructor (Sociocultural Anthropology), Clark College, Vancouver, WA
- 1987: Research associate, Oregon Historical Society part-time support to write book on Wascopam Mission
- 1983-86: Administrative Assistant (government documents), Millar Library, Portland State University
- 1980-81: Teaching assistant, Department of Anthropology, University of Washington (Anthropology 100, Introduction to the Study of Man)
- 1979-80: Co-principal investigator, research project on history of alcohol adoption among Northwest Coast Indians, sponsored by the Alcoholism and Drug Abuse Institute, University of Washington (half-time position)
- 1978-79: Research assistant, Japanese-American Community Study, Department of Anthropology, University of Washington (part-time position)
- 1973-77: Inventory control clerk, drug department, Meier & Frank Department Store
- 1969-72: Instructor of anthropology, Tacoma Community College. Taught Anth 100 (Introduction to the Study of Man), Anth 199 (Indians of North America), Anth 202 (Principles of Social Anthropology),

and Anth 205 (Principles of Archaeology). Full-time, tenured position.

PUBLICATIONS:

- November 1999 ***The Coming of the Spirit of Pestilence: Introduced Infectious Diseases and Population Decline Among Northwest Coast Indians, 1774-1874.*** Seattle and Vancouver: University of Washington and UBC Presses.
- April 1999: ***Indians, Fire, and the Land in the Pacific Northwest.*** Edited anthology of papers by anthropologists, historians, botanists, and foresters on Pacific Northwest Native American use of fire as a form of environmental management. Author of introduction and conclusion and one paper; co-author of two others; editor of all other contributions. Corvallis: Oregon State University Press.
- June 1998: "Demographic History to 1990," pp. 467-83 in ***Handbook of North American Indians*** vol. 12, ***Plateau***. Edited by Deward Walker. Washington: Smithsonian Institution Press.
- June 1996: ***People of The Dalles: the Indians of Wascopam Mission:*** a historical ethnography based on the papers of the Methodist missionaries. Studies in the Anthropology of North American Indians. American Indian Studies Center, Indiana University, in association with the University of Nebraska Press, Lincoln.
- Spring 1996: "Commentary on Early Contact Period Smallpox in the Pacific Northwest." ***Ethnohistory*** 43(2): 307-20.
- 1995: "Kalapuya Disease and Depopulation" in ***What Price Eden?: the Willamette Valley in Transition, 1812-1855.*** Salem: Mission Mill Museum. Updated version of talk given at April 1988 symposium, Mission Mill Museum.
- Spring 1994: "The 1847-1848 Pacific Northwest Measles Epidemic." ***Oregon Historical Quarterly*** 95(1): 6-47.
- Spring 1994: "Smallpox in the Pacific Northwest: The First Epidemics." ***BC Studies*** 101: 5-40. Based on March 1981 talk, "Smallpox on the Northwest Coast: a Summary of Ethnohistorical Data From 1774 to 1848," given at the 34th annual Northwest Anthropological Conference, Portland.
- Autumn 1992: "Population Decline From Two Epidemics on the Northwest Coast," pp. 249-55 in John Verano and Douglas Ubelaker, eds.,

Disease and Demography in the Americas. Washington: Smithsonian Institution Press. Based on a talk given at the November 1989 symposium "Disease and Demography: New World Peoples Before and After 1492," Columbian Quincentenary Series, Smithsonian Institution.

- Fall 1991: "The Legacy of Introduced Disease: the Southern Coast Salish," by George Guilmet, Robert Boyd, David Whited and Nile Thompson. ***American Indian Culture and Research Journal*** 15(1): 1-32.
- August 1990: "Demographic History, 1774-1874," pp. 135-48 in ***Handbook of North American Indians*** vol. 7, ***Northwest Coast.*** edited by Wayne Suttles. Washington: Smithsonian Institution Press.
- May 1987: "Seasonal Population Movement on the Lower Columbia River: the Social and Ecological Context" by Robert Boyd and Yvonne Hajda, ***American Ethnologist*** 14(2): 309-26. Based on April 1985 talk given at the 38th annual Northwest Anthropological Conference, Ellensburg.
- Fall 1986: "Strategies of Indian Burning in the Willamette Valley," ***Canadian Journal of Anthropology*** 5(1): 65-86. Revised and expanded version of talk given at the Second Annual Public Archaeology Conference, Portland, January 1977.
- June 1985: Ph.D. dissertation, "The Introduction of Infectious Diseases Among the Indians of the Pacific Northwest, 1774-1874." Department of Anthropology, University of Washington. University Microfilms International order #AAI8521561.
- 1983: "The Klickitat Trail of South-Central Washington: A Reconstruction of Seasonally Used Resource Sites," by Helen H. Norton, Robert Boyd, and Eugene Hunn. Pp. 121-52 in "The Location of Prehistoric Places on the Southern Northwest Coast," edited by Robert Greengo. ***Thomas Burke Memorial Washington State Museum Research Reports*** number 3.
- Spring 1975: "Another Look at the 'Fever and Ague' of Western Oregon." ***Ethnohistory*** 22(2): 135-54. Revised and expanded version of talk given at the 28th annual Northwest Anthropological Conference, Seattle, March 1975.

WORK IN PROGRESS:

Columbia Guide to the Indians of the Northwest. Book under contract to Columbia University Press. Manuscript due 1/2007

Chinookan Studies (tentative title). Book under contract to University of Washington Press, co-edited with Kenneth Ames. Projected publication date mid 2006.
"Plateau Disease and Demography," with C. Dolores Gregory. To appear in ***The Journal of Northwest Anthropology***

A Disease History of the Indians of the Plateau Culture Area, Precontact to 1910.
Partially completed (four chapters) book manuscript.

"The Columbia River as a Corridor for Disease Introduction: 'New Diseases' of the 1840s in the Pacific Northwest." Based on talk given at the Great River of the West Conference, Longview WA, November 1992. Volume II of conference proceedings. Under consideration for publication by the University of Washington Press.

SELECTED UNPUBLISHED TALKS, REPORTS, AND PAPERS:
(not noted above)

- October 2001: "Smallpox Epidemic Periodicity in the Contact-Era Pacific Northwest." Portland State University First Thursday anthropology lecture.
- April 2001a: "Disease Transfer and the Native Peoples of the Columbia Basin, 1774 to 1874," lecture for "Landscapes of the Columbia Basin" class, Oregon State University.
- April 2001b: "Indians, Fire, and the Land—With Special Emphasis on the Willamette Valley." Linfield College/Native Plant Society of Oregon.
- January 2001: "Post-Contact Disease History of the Indians of Western Oregon." Oregon Archaeological Society.
- June 2000: "Prairies of Western Washington: How Were They Maintained?" with Estella Leopold. Talk given at symposium, "Fire History in the Pacific Northwest: Human and Climatic Influences," at the 81st Meeting of the American Association for the Advancement of Science Pacific Division, Ashland, OR.
- November 1999: "The Epidemic of the 1830s on the Lower Columbia," Yakama Nation Cultural Center, Toppenish, WA.
- Early 1990s: "The Willamette Revival of 1838-39: Indian and White Participants and Purposes," unpublished chapter from "People of The Dalles" unabridged version.

- April 1992: "Columbus's Legacy to Northwest Native Americans: Old World Disease Imports and Their Effects", Columbian Quincentenary Lecture Series, Oregon State University, Corvallis.
- April 1991: "The Effect of Initial Contact on the Indians of the Pacific Northwest," Northern Mystery Lecture Series, Oregon Historical Society, Portland.
- March 1990: "A Cultural Resource Overview for the 1990s, BLM Prineville District, Oregon." Infotec Research, Inc. (NWERA contracted contributing authors).
- November 1988: "Early Historiography of the Chinook Jargon" by Yvonne Hajda, Henry Zenk, and Robert Boyd. Talk given at the 87th annual meeting of the American Anthropological Association, Phoenix.
- October 1988: "Preliminary Assessment of Cultural Resources Along the Proposed Route of the PGT-PG&E Pipeline Expansion Project: Idaho, Washington, Oregon, and California." Infotec Research, Inc. (contracted ethnographic author for Idaho, Washington, and Oregon sections).
- Fall 1987: "Cultural Resources Inventory of the North Coast Feeder" (Northwest Natural Gas Mist to Sauvie Island Pipeline). Charles Hibbs & Associates (NWERA contracted contributors).
- 1984: "'Doctor-Killings' in the Southern Northwest Coast: An Index of Systemic Stress Associated with Epidemic Mortality and Rapid Culture Change." Unpublished manuscript.
- 1980: "An Ethnohistorical Study of Alcohol Introduction and Use Among the Indians of the Northwest Coast, 1774-1874." Report submitted to the Alcoholism and Drug Abuse Institute, University of Washington.
- 1979: "Old Cures and New Diseases: The Indian Sweat Bath and Febrile Diseases on the Northwest Coast in the First Century of Contact." Unpublished manuscript.
- 1977: "A Guide to Ethnohistorical Materials from the Pacific Northwest in the Hudson's Bay Company Archives, Winnipeg." Unpublished manuscript.

PEER REVIEW:

- Fall 2004: Review essay, Lionel Youst and William Seaburg: "Coquelle Thompson, Athabaskan Witness: A Cultural Biography," and Robert Ruby and John Brown: "Dreamer-Prophets of the Columbia Plateau: Smohalla and Skolaskin," *Ethnohistory* 51(4): 830-34.
- December 1999: Review of Leland Donald, "Aboriginal Slavery on the Northwest Coast of North America." *Oregon Historical Quarterly* 100(3): 358-59.
- Summer 1995: Panelist, Fellowships in Anthropology, National Endowment for the Humanities, Washington DC.
- April 1993: Review of Jeff LaLande, "The Indians of Southwestern Oregon: An Ethnohistorical Review." *Pacific Northwest Quarterly* 84(2): 62-63.

GRANTS:

- 1992: Grant-in-Aid, Hannah Institute for the History of Medicine, Toronto: for travel and research on the 1862-63 smallpox epidemic among the Indians of British Columbia (archives in Victoria, Winnipeg, and London).
- March 2-8, 1991: Visiting Scholar's Short-Term Research Grant, Smithsonian Institution, Washington D.C.: for research on Plateau Indian demographic history, National Archives.
- Dissertation Research: University of Washington Anthropology Department travel grants:
 1980 (May 15-June 15): Bancroft Library, University of California.
 1978 (June 15-July 15): Hudson's Bay Company Archives, Winnipeg.
- Phillips Fund of the American Philosophical Society, Philadelphia, Small Grants in Ethnohistory and Linguistics: 1979 (July 15-August 15): British Columbia Provincial Archives, Victoria.
- September 1979 to August 1980 Research Project: "An Ethnohistorical Study of Alcohol Introduction and Use Among the Indians of the Northwest Coast During the First Century of Contact," funded by a grant from the Alcoholism and Drug Abuse Institute, University of Washington. Co-principal investigator with Dr. Pamela Amoss.

ACADEMIC HONORS:

August 1967: BA cum laude, Portland State College.

January 1997: *People of The Dalles* selected as an "Outstanding Academic Book" for 1996 by *Choice* magazine.

RESEARCH INTERESTS:

Areal focus: Northwest Coast Native Americans (particularly Oregon and Washington)

Subject areas: Medical Anthropology
Ethnohistory
Cultural Ecology
Culture Contact and Change
Demographic Anthropology